

The 19th June, 1986

No. 9/8/86-6Lab./4748.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. (i) Managing Director, The Haryana State Federation of Consumers Co-op. Whole Sale Stores, Sector 22-B, Chandigarh, (ii) The Mahendergarh Central Co-op. Consumers Store Ltd., Mahendergarh.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 147 of 1984

between

SHRI PARMA NAND, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S.
MANAGING DIRECTOR, THE HARYANA STATE FEDERATION OF CONSUMERS CO-OP.
WHOLESALE STORES, SECTOR 22-B, CHANDIGARH, (ii) THE MAHENDERGARH
CENTRAL CO-OP. CONSUMERS STORES LTD., MEHENDERGARH

Present :—

Shri S. K. Goswami, for the workman.

Shri P. R. Yadav, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Parma Nand and the respondent-management of M/s. Managing Director, The Haryana State Federation of Consumers Co-op. Wholesale Stores, Sector 22-B, Chandigarh, (ii) The Mahendergarh Central Co-op. Consumers Store Ltd. Mahendergarh has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/75-84/25821-27, dated 24th July, 1984 under section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Parma Nand was justified and in order ?
If not, to what relief is he entitled ?

According to the claim statement, the workman was appointed on 15th December, 1979 and was posted in the office of the Mahendergarh Central Co-op. Consumers' Stores Limited Mahendergarh. His services were illegally terminated on 2nd December, 1983 alleging the shortages of stocks, dishonest practices and embezzlement. It is alleged that no chargesheet was served and no enquiry was held and no show-cause notice was issued. One FIR No. 38, dated 5th September, 1983 under section 409 IPC has been lodged against the workman. The proceedings are still pending in the Court and he cannot be dismissed on the basis of the FIR lodged with the police. He has prayed that he be reinstated with continuity of service and with full back wages.

This claim has been contested by the management. Objection is taken that applicant does not fall under the category of a workman. Objection is taken that this Court has no jurisdiction to try the dispute as the industrial dispute is not applicable on Haryana State Federation of Consumer's Co-op. Wholesale Stores. On merits it is admitted that the workman was appointed on 15th December, 1979 on purely temporary basis. It is admitted that his services were terminated on 2nd December, 1983 under rule 26.1. (a) of the Staff Service Rule of this Federation for embezzlement of funds. The claimant had been admitting through various letters. Criminal cases is lodged against the workman. His services were also terminated because of misconduct as he remained absent from duties from 30th June, 1983 to 2nd December, 1983. The workman was informed through various registered letters and asked for joining the service and get physical verification but he failed to join duty. Hence his services have to be terminated. The claimant accepted the shortages,—vide his letter addressed to the A.R.C.S. with the promise to deposit this amount within a week i.e. 28th March, 1984, but he failed to deposit this amount and remained absent. The claimant never joined his services despite various reminders. It is contended that his services were terminated in view of embezzlement and also in view of misconduct of remaining absent,

Rejoinder filed and denied these averments. The reference was contested on the following issues:—

- (1) Whether this Court has no jurisdiction to try this reference ?
- (2) Whether the claimant is not a workman ?
- (3) As per reference ?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under :—

Issue No. I

Shri P. R. Yadav authorised representative of the management has not been able to show as to how this Court has no jurisdiction to try the present reference. He has not placed reliance of any rules or any judgement in support of his contentions. I, therefore, find that this Court has jurisdiction to try this reference. This issue is therefore, decided against the management.

Issue No. II

This issue is also decided against the management as it is not pressed or argued by the authorised representative of the management.

Issue No. III

Ex. M-2 is the copy of the award of the Arbitrator. It is found that the workman has embezzled Rs. 11,422.75 P. It is stated by MW-1 that the workman had paid the embezzled amount. The workman has not stated that he had filed any appeal or revision against the award Ex. M-2. Hence the award becomes final. It stands proved from the award that the workman has been guilty of embezzlement of Rs. 11,422.75. It is contended by the representative of the workman that no enquiry was constituted, no charge-sheet was served and no show-cause notice was issued to the workman. Hence he could not be terminated merely on the basis of FIR. In the present case even if this Court has to hold an enquiry about the embezzlement. The embezzlement stands proved from the award Ex. M-2. It has become final. The amount has since been deposited by the workman. Hence he is guilty of embezzlement and misappropriation. Hence his termination was quite legal and justified. MW-1 has proved that the workman remained absent from 30th June, 1983 to 2nd December, 1983. He never turned up to join duty within this period. Hence is considered that he has himself abandoned his services and order of termination dated 2nd December, 1983 was only formal order. No enquiry was required to be conducted regarding misconduct of absence because for long absence it is presumed that the workman has abandoned his job voluntarily.

In view of the above discussion, I find that the order of termination of the workman was justified and legal. He is not entitled to any relief.

The award is given accordingly.

Dated the 24th April, 1986.

R. N. SINGAL,
Presiding Officer,
Labour Court,
Faridabad.

Endorsement No. 1288, dated the 17th May, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,
Presiding Officer,
Labour Court,
Faridabad.